

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

RISING GROUND

Employer

and

Case 02-RC-264192

WAREHOUSE PRODUCTION SALES  
AND ALLIED SERVICE EMPLOYEES  
UNION LOCAL 811 AFL-CIO  
Petitioner

ORDER

The Employer's Request for Review of the Regional Director's Order Directing Mail Ballot Election is denied as it raises no substantial issues warranting review.<sup>1</sup> The Employer's Emergency Motion to Stay Mail Ballot Election is denied as moot.<sup>2</sup>

MARVIN E. KAPLAN, MEMBER

WILLIAM J. EMANUEL, MEMBER

LAUREN McFERRAN, MEMBER

Dated, Washington, D.C., September 8, 2020

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<sup>1</sup> In denying review, we note that the Board's decision in *San Diego Gas & Electric*, 325 NLRB 1143, 1145 (1998), recognizes that Board elections should, as a general rule, be conducted manually and specifies well-settled guidelines for determining whether a mail-ballot election would normally be appropriate. But in *San Diego Gas & Electric*, the Board also recognized that "there may be other relevant factors that the Regional Director may consider in making this decision" and that "extraordinary circumstances" could permit a Regional Director to exercise his or her discretion outside of the guidelines set forth in that decision. *Id.*

In finding that a mail-ballot election is warranted in this case, we rely on the extraordinary circumstances resulting from the Covid-19 pandemic. The Board will continue to consider whether manual elections should be directed based on the circumstances then prevailing in the region charged with conducting the election, including the applicability to such a determination of the suggested protocols set forth in GC Memorandum 20-10. Under the circumstances presented in this case, however, we are satisfied that the Regional Director did not abuse his discretion in ordering a mail-ballot election here.

The Board is open to addressing the normal criteria for mail balloting in a future appropriate proceeding.

<sup>2</sup> We are treating the Employer's motion to stay the mail-ballot election as a request for extraordinary relief under Sec. 102.67(j) of the Board's Rules and Regulations.